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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/709,793	05/28/2004	Rajagopal Andra	BUR920040087US1	3792
29154	7590	02/25/2009		
FREDERICK W. GIBB, III Gibb Intellectual Property Law Firm, LLC 2568-A RIVA ROAD SUITE 304 ANNAPOLIS, MD 21401				
EXAMINER				
DWIVEDI, MAHESH H				
ART UNIT		PAPER NUMBER		
2168				
MAIL DATE		DELIVERY MODE		
02/25/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* RAJAGOPAL ANDRA,  
BALASUBRAMANIAN GOPALAN,  
JAYAKUMAR KRISHNAMURTHY,  
SRINIVASA KUTHETHUR,  
AND SETHU RADHAKRISHNAN

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Application No. 10/709,793  
Technology Center 2168

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Mailed: February 25, 2009

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Before DELORES LOWE, *Review Team Paralegal*  
LOWE, *Review Team Paralegal*.

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 16, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matters requiring attention prior to docketing.

**APPEAL BRIEF, CLAIMS APPENDIX**

A review of the Appeal Brief filed June 10, 2008 reveals that claims 2-6, 8-10, 12-16, and 18-20, and 22-24 in the Claims appendix of the Appeal Brief are not consistent as amended in the last entered amendment filed on October 11, 2007. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8<sup>th</sup> ed. Rev. 6, Sept 2007) for details.

**ANSWER, STATUS OF AMENDMENTS**

A review of the file finds that the status of the amendments as provided in the Examiner's Answer mailed July 28, 2008 under the heading "Status of Amendments" is unclear and/or is not consistent with the last **entered** amendment of record in accordance with 37 CFR 41.37(c)(1)(iv).

A review of the file finds that an After Final Amendment was filed February 29, 2008. An Advisory Action was mailed March 18, 2008 notifying appellants that the After Final Amendment **WAS NOT** entered.

However, Examiner has not provided the necessary statement as to the status of the After Final Amendment filed March 18, 2008 and/or the Examiner's statement regarding the status of the After Final amendment is unclear or incorrect. Correction of the status of amendment filed subsequent to Final rejection is required.

Accordingly, it is **ORDERED** that the application is returned to the Examiner:

- 1) correction of the Claims Appendix of the Brief filed June 10, 2008;
- 2) to vacate the Examiner's Answer mailed July 28, 2008;
- 3) to generate a new Examiner's Answer setting forth the correct status of the after final amendment and to correct other sections of the Answer as may be required; and
- 4) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

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